

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2123.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	May 4, 2004
DATE OF REPORT:	May 24, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	August 12, 2004

**COMPLAINT ISSUES:**

Whether the Washington Community Schools Inc. and the Daviess-Martin Special Education Cooperative violated:

511 IAC 7-21-5 (a) (1), (2), and (3) by failing to provide comparable and sufficient instructional spaces for junior high and senior high school students with disabilities, including space that is not less than the per student classroom space required by 410 IAC 6-5.1-5(d).

**FINDINGS OF FACT:**

1. The Student is 18 years old and is eligible for special education and related services due to autism spectrum disorder. This complaint was filed on behalf of all of the students with disabilities in two self-contained special education classrooms at the junior-senior high school.
2. The junior high school and the senior high school are in connected buildings, with some shared facilities. In addition to the resource rooms, there are two special education classrooms (Junior High Classroom and High School Classroom) for students with severe disabilities. Both the Junior High Classroom and the High School Classroom are located in the high school part of the building. The Junior High Classroom and the High School Classroom are adjoining rooms, connected by an internal doorway. A corridor outside the High School Classroom serves as auxiliary space with specialized equipment for functional skills instruction (e.g., cooking). During a part of the 2003-2004 school year, the junior high special education teacher and the high school special education teacher team-taught, utilizing the combined classroom spaces for all students. However, at the time the Complaint was filed, team-teaching had been discontinued.
3. The School calculated the area of the High School Classroom to be a total of 848 square feet.
4. During the 2003-2004 school year, 9 students were assigned to the High School Classroom. Not all of these 9 students are scheduled to be in the High School Classroom all day, 5 days per week, but there are times when 9 students (plus 2 adults) are in the High School Classroom.
5. The School calculated the area of the Junior High Classroom to be a total of 194 square feet of which 21.75 square feet is a closet, for a net of 172.25 square feet of classroom space. The usable classroom space is reduced by a heating unit occupying approximately 6 square feet.
6. During the 2003-2004 school year, 6 students were assigned to the Junior High Classroom. Not all of these students are scheduled to attend school all day, 5 days per week, but there are times when 6

students (plus 3 adults) are in the Junior High Classroom. It is anticipated that there will again be 6 students in the Junior High Classroom during the 2004-2005 school year.

7. At least one student in the Junior High Classroom requires specialized equipment and school health services. These services are provided in the adjoining High School Classroom, due to insufficient space in the Junior High Classroom.

#### **CONCLUSION:**

1. Given the Indiana Department of Health regulation [410 IAC 6-5.1-5(d)] requiring that "each student shall be provided with no less than 30 square feet of classroom area," Findings of Fact #2, #3, and #4 indicate that the High School Classroom complies with the requirement, whereas Findings of Fact #2, #5 and #6 indicate that the Junior High Classroom does not comply. In addition, Finding of Fact #7 indicates that the Junior High Classroom is not sufficient to accommodate a student's special equipment/needs. Therefore, a violation of 511 IAC 7-21-5 (a) occurred.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

Washington Community Schools Inc. and the Daviess-Martin Special Education Cooperative shall develop and implement a plan for providing a junior high special education classroom that meets the requirements of 410 IAC 6-5.1-5(d) and 511 IAC 7-21-5(a).

Documentation of compliance, consisting of the plan, shall be submitted to the Indiana Department of Education, Division of Exceptional Learners by August 12, 2004.